



Remarks

Introduction and discretionary authorization of Examiner to readjust fees

Counsel is grateful to the Examiner for the gentle but firm manner in which she has alerted Counsel to the necessity for complying with the current practices in the USPTO instead of making assumptions that many of the earlier practices [e.g. voluntary aspects of Information Disclosure Statements] still prevailed. This submission seeks to expedite a Notice of Allowance while granting the Examiner with adequate discretionary authority concerning which fees are required. A plausible argument might be made that the currently submitted Information Disclosure Statement [IDS] qualifies under Rule 97[f] as merely a technical amendment to the 2001 IDS filed concurrently with the application, The Fee Transmittal form authorizes payment of the \$385 fee for "continued examination" under Rule 114, thereby suggesting that the IDS be entered under 97 [b][4]. That is, the IDS is being submitted prior to the Examiner's response to this submission. If for some reason, there were a failure of some technicality of acceptance under 97[b][4], then the Examiner would be authorized to enter the 2004 IDS under 97[c][2] because the Fee Transmittal form has a check mark indicating that there is authorization for the payment of the amounts needed for expediting the Notice of Allowance. Counsel interprets 97[c][2] as irrelevant when the fee for Continued Examination is paid. This submission seeks to expedite a Notice of Allowance while granting the Examiner adequate discretionary authority concerning which fees are required. Counsel focuses on expediting a Notice of Allowance, not upon reducing fees to the absolute minimum.

Priority

Submitted herewith is a substitute page 1 for the existing specification that is believed to provide the appropriate phraseology for establishing that this case is governed by the 2001 rules concerning divisional applications of a 1999 application. Alternatively, counsel also submits

A substitute specification [no claims] having both the correct cross-reference phraseology and omitting what was formerly the "prior art" section of the specification [a true copy certified by counsel as containing no new matter] is submitted voluntarily with the request that the Examiner formally enter it,

the now superfluous discussion of the supplemental items of the 2004 IDS that were formerly the "prior art" segment of the specification [such substitute specification being free from new matter and a true copy of the properly amended specification] is submitted voluntarily with the request that the Examiner enter it as appropriate. If the Examiner declines to enter such substitute specification, then entry is requested for a substitute page 1 of the existing specification. If such substitute specification were rejected, then the Examiner would be encouraged to employ an Examiner's amendment to delete the now superfluous section on prior art. Many who analyze the patent from this case will review parent 6,482,108 containing such Prior Art section. Applicant has persistently and conspicuously sought such priority, and any questions have concerned technicalities detected by the Examiner. Counsel authorizes the Examiner by Examiner's amendment to take any supplemental action needed for assuring the priority status to which this case is entitled.

Drawings

As noted in the July 30, 2003 amendment, formal drawings were

submitted July 16, 2003; and a photocopy of the postal card receipt of July 23, 2003 was included in the July 30, 2003 amendment. An informal FAX to the Examiner and an investigation by the Examiner led to Counsel's conclusion that the USPTO had mislaid such formal drawings. Accordingly counsel employed John R. Evans to prepare substitute Formal Drawings, which are now submitted herewith. During several decades, the USPTO Draftsman has not rejected drawings prepared for Counsel by John R. Evans. Because John R. Evans now charges about \$125 per page, Counsel sometimes uses other draftsmen. Counsel requests that the Examiner give high priority to obtaining the approval of the currently submitted drawings and notifying Counsel of their approval. Counsel seeks to avoid the hazards inherent in seeking any approval of drawings or correction of drawings after issuance of a Notice of Allowance. Anything connected with approval of drawings remains among the most baffling and frustrating problems in patent prosecution.

2004 Information Disclosure Statement

This submission includes a section called the Information Disclosure Statement. It includes the form on which the publication dates of each of the items is recited. The Examiner has cited Groll et al, which was one of the items in the "Prior Art" segment of the specification. Hence, the arguments concerning Chadwell refute the possibility of a rejection on any combination of the teachings of Groll et al and Chadwell. What was formerly the "Prior Art" section of the specification is now re-submitted as the clarification of why each of the presently sought claims patentably distinguished over any combination of such supplemental items, each of which merits status as a reference. In earlier years, many examiners routinely listed as a reference each item discussed in the

Prior Art section of the specification.

In accordance with 98 [a][2][I] copies of each of the US patents and journal references are being submitted in an effort to comply with all technical requirements for an IDS. Counsel suspects that eventually the necessity for submitting paper copies of US Patents in an IDS will be eliminated for the same reasons that applicants are being asked to download US patents instead of being provided with paper copies thereof. Counsel cherishes such current inconsistency and chaos as an inherent feature of how human cultures have evolved for scores of millennia, and are likely to continue imperfectly during Future decades.

The discussion of the items in the 2004 IDS is in two sections. Chadwell in view of Gross et al [and/or Gross et al in view of Chadwell] is clarified in several pages. The other items are discussed in a segment that is a repetition of what was previously the "prior art" section of the specification.

Objections to claims

Claim 8 has been amended to incorporate phraseology of claim 4 and to overcome any "functionality" objections. Prompt indication of the allowability of amended claim 8 is earnestly solicited.

Claim 9 has been cancelled and withdrawn so that it could be replaced by new claim 10, which has phraseology aimed to make it properly dependent on Claim 8.

Terminal Disclaimer

Submitted herewith is a terminal disclaimer concerning 6,432,108, together with the \$55 fee. Substantially all persons significantly analyzing the patent are likely to study the parent 6,432,108. The lawyer in the office of the

McLaughlin 10/015,798 AU 2878 Ex. Otilia Gabor, March, 2004

Solicitor who prepared the form for the Terminal Disclaimer wisely chose terminology permitting the term of the patent issuing from this case to be completely unaffected by any separate shortening of the duration of the earlier patent. Counsel continues to plan to FAX a disclaimer of all claims in 6,432,108 at about 12:14 AM on the day of the issuance of the patent from this case, thus supplementing the currently submitted disclaimer.

Conclusion of Remarks

Prompt issuance of a Notice of Allowability is earnestly solicited.

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